

Calais LNG

- Applicant's submission regarding Board Jurisdiction

CALAIS LNG

REVIEW OF PUBLIC SUPPORT

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VIA HAND DELIVERY

Susan Lessard, Chair
Maine Board of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

Re: Calais LNG

Dear Chair Lessard:

Calais LNG Project Company, LLC and Calais Pipeline Company, LLC ("Calais LNG") recently filed with the Department its applications for Site Location of Development, Natural Resources Protection, Wastewater Discharge, and Air Emissions permits as well as for a Water Quality Certification. These applications are extremely thorough, reflecting years of careful research and constructive collaboration with the resource agencies. Calais LNG is deeply appreciative of the excellent support and guidance that the DEP staff in all three Bureaus has provided to our project team.

The purpose of this letter is to request that the Board refrain from taking jurisdiction over the Calais Project and that the Department be allowed to process these applications. This is not a reflection on the Board. Rather, it is a reflection on how much the Department has learned about LNG and Passamaquoddy Bay in recent years and the most effective way to protect the public interest in this instance. Moreover, based upon our two years of environmental studies and preparation of exhaustive federal and state applications, including careful review of the studies and permitting actions of two other LNG projects proposed for Passamaquoddy Bay, we believe both the public and public agencies across the board are well informed about the relevant issues. We, therefore, strongly believe that the licensing of this project is appropriately managed by the Department, and that the Department will be able to afford the public with a sound process that protects the environment as well as the interests of the citizens of the State of Maine.

We urge that the Board consider the following factors when reviewing this request:

Calais LNG has extremely strong support from officials at the local, regional and state-level. The Calais LNG Project has been well received in the community, and has the strong endorsement of the City of Calais and Washington County. The Project has been unanimously endorsed by the Calais City Council several times over the last several years as well as by the Washington County Commissioners. In addition, all of the Washington County legislators, including Senator Raye, support the project. Further, Governor Baldacci has long been in favor of siting an LNG receiving terminal in Washington County so long as the local community is supportive of the project, as it is. In speaking of LNG in Washington County, Governor Baldacci has been quoted as saying that "the proposed terminals in Washington County give economic hope to a region that needs new industry. All of these projects will create thousands of good-paying, private-sector jobs in Maine just when we need them the most." The attached binder, at Tabs 1-3 and 5, contains information reflecting this strong local, regional and state-level support. This extensive local support shows the public understands and welcomes the project and that the project is not controversial.

The local citizenry has been virtually unanimous in its enthusiasm for the Project. At the initial scoping meeting sponsored by FERC in December 2008, support for the Project overwhelmingly outnumbered opposition (and of the three persons who spoke against the project, two were from Canada). Even more remarkable was the March 2009 public information meeting held as required under the Department's procedural rules. During the five-hour meeting, which attracted approximately 240 interested citizens, not a single person spoke in opposition to the Calais LNG Project. DEP staff (Jim Cassida and Becky Blais) were present and can attest to the unprecedented community support shown for the project. See attached binder at Tabs 3, 4 and 9. Thus, the DEP process to date reflects the public support for the noncontroversial nature of the project.

Calais LNG has applied the lessons learned from the experiences of the other two LNG projects proposed to be located in Washington County. Calais LNG is the third LNG receiving terminal that has undertaken scientific studies in eastern Washington County/Passamaquoddy Bay region. We estimate that over \$40M has been expended in studying this region and its natural resources, and at least one DEIS (for Downeast LNG) has already been prepared. Problematic issues raised regarding those projects have been avoided or the necessary efforts have been made by Calais LNG to address them. We have undertaken extremely comprehensive and collaborative studies resulting in the submission of scientifically robust permit applications. Further, Calais LNG has undertaken a significant outreach effort to both the regulators and those local/regional/national constituencies that have expressed reservations regarding the other Washington County LNG projects -- all in an effort to understand and address their concerns. Our project approach, and the DEP (and FERC) applications, reflect our efforts in that regard, beginning with the selection of what has been termed the best site for an LNG facility on the eastern seaboard. By way of example, Calais LNG took seriously the comments and feedback of Department staff, most especially regarding ideas and suggestions relating to terminal design and the preferred pipeline route. Based upon staff's concerns and recommendations, we significantly changed the placement of

various terminal buildings and structures, and literally moved segments of our pipeline, in order to avoid a number of vernal pools and significant vernal pools, a deer wintering yard and a large, established beaver dam.

The Department is fully up to speed on LNG projects. DEP staff and management have devoted hundreds (if not thousands) of hours of effort to understand the issues associated with LNG receiving terminals and sendout pipelines, virtually all in the context of applications that involve project sites close to Calais LNG's proposed location. The projects' technologies are essentially the same, many of the issues are the same and the region where they have been proposed is the same – little is new here. Further, the Department's staff, and the staff of the two key consulting agencies for the state (IF&W and DMR), as well as the Army Corps, are sophisticated with regard to the level of inquiry concerning these projects. Those individuals and entities have sought detailed information during the process leading up to the filing of these applications, and that information has been willingly and promptly provided by Calais LNG.

Calais LNG's proposed terminal and pipeline project has outstanding site characteristics. Our project site is geographically isolated and is not visible from U.S. Route 1. The bathymetry of the St. Croix River in this area allows the pier to be less than one-thousand feet in length and will have no associated dredging. The topography of the site is such that nearby neighbors will be minimally impacted by visual or noise effects from the terminal. The send-out pipeline is only 20.7 miles in length and will follow existing utility corridors for a good portion of that length. The terminal site is across from Bayside Marine Terminal and an industrial quarry. The natural resource impacts are exceedingly low for a project of this size (e.g., only 2.1 acres of permanent wetland loss and there will be no significant vernal pools impacted). Again, this will diminish any possibility of project controversy.

Calais LNG has very strong financial backing from an entity with a strong environmental ethic. Both of the Calais LNG companies have as their Managing Member GS Power Holdings, Inc., a wholly-owned direct subsidiary of Goldman Sachs Group, Inc. ("Goldman Sachs"). Goldman Sachs' environmental and sustainability policies are comprehensive and extremely important to the Company. This has ensured thorough project studies.

The project should be handled by the DEP in a manner that is comparable to other large projects that have needed multiple licenses. The Department itself has handled projects such as this without recommending that the Board take jurisdiction. The applications for at least one of those projects -- Central Maine Power's Maine Power Reliability Project ("MPRP") -- is currently being considered solely by the Department, after a recommendation by the DEP to the BEP that it not take jurisdiction. A comparison of various different metrics of the MPRP with the Calais LNG project may be instructive:

	MPRP	Calais LNG
Communities Project Traverses	73	4
Impacts from Cutting in Significant Wildlife Habitat	~125 acres	~2.0 acres
Distance of Linear Aspect of Project	360 miles	20.7 miles
Wetlands Lost	14 acres (of which 2.63 are wetlands of special significance)	2.1 acres
Stream Crossings	804 waterbodies intersected	21 total crossings
Stream Alterations (linear feet)	1,200 feet	0 feet
Significant Vernal Pools (SVP) Impacted	85 pools (and ~70 acres of land within 250 feet of SVPs impacted)	0 pools (and <u>no</u> pools and no land within 250 feet of SVPs impacted)
Number of Interested Parties	130+ intervenors at the PUC	15 intervenors at FERC
Environmental Regulatory Agencies Reviewing Project	Maine DEP Maine IF&W U. S. Army Corps	Maine DEP Maine IF&W Maine DMR Maine SPO U.S. Army Corps FERC (including NEPA and EIS Review) U.S. Dept of Interior U.S. Fish & Wildlife- U.S. Park Service NOAA
Estimated Project Costs	\$1.55 Billion	\$920 Million

Further to this comparison, the MPRP will have its project reviewed only at the Maine PUC and the Maine DEP. The PUC proceedings do not involve regulatory review of environmental issues – the exclusive focus there is on need for the project. Calais LNG, on the other hand, will not only have its application reviewed by the Maine DEP, it will also be subjected to the rigors of a National Environmental Policy Act (NEPA) review process at the Federal Energy Regulatory Commission (FERC). That wholly separate process provides a second very robust layer of environmental review -- including extensive opportunity for the public, as well as Federal and State agencies, to intervene in and review/comment on the project. The MPRP not only is not being reviewed by the BEP, it is not subject to that separate Federal NEPA review, either.

In addition, the MPRP project is highly controversial and has received state-wide, largely negative media attention for a sustained period. Further, it is one of the most (if not the most) highly contested proceedings ever managed by the PUC – over 130 parties have intervened in that proceeding to date and the proceeding will have consumed two years. And yet the Department has recommended, and the BEP has concurred, that the MPRP project will not be heard by the Board. From a consistency and comparability perspective, therefore, the Calais LNG project warrants that same treatment.

There is a definite need for this project from both an economic and an environmental perspective. There is a strong possibility that BEP jurisdiction may lead to delay that could postpone an important economic stimulus opportunity that will help put hundreds of Mainers to work and create significant economic benefits to Washington County – an area of the State in desperate need of an economic transfusion. Further, having local LNG available to be trucked to area manufacturers (e.g., the Domtar Mill in Baileyville and Lincoln Paper and Tissue in Lincoln) will provide a potentially life-saving economic boost to those facilities that are heavily dependant on fuel oil for energy production. Use of natural gas at facilities such as Domtar and Lincoln also will result in those facilities' air emissions being reduced significantly.

Natural gas determines the price of electricity in Maine 90% of the year. Maine gas and electricity consumers pay the highest prices for natural gas in the continental United States. This is because natural gas pipelines in Southern New England are and will remain inadequate to meet Maine's needs at peak times. Only LNG storage located in Maine will change this. Supplies at Calais LNG will lower costs to gas consumers by up to 15% per year, saving up to \$100 million/year in electricity costs alone. Calais LNG will also facilitate fuel switching from oil to gas. Maine's highest per capita consumption of oil in the nation is a severe burden to Maine's economy and its environment.

DEP is best suited to review these applications. In this circumstance, the DEP, with David Littell as Commissioner who serves as Chair of RGGI Inc. (the coordinating administration of the greenhouse gas cap and trade system for nine northeastern states, the first in the U.S.), is the optimal place for consideration and decision-making regarding these applications. This project is a critical part of the overall energy future of Maine and New England. In particular, natural gas is the best practical option for balancing wind, due to its quick-start and quick-ramp abilities. Commissioner Littell's

work with RGGI over the past half decade or more makes him uniquely qualified to appreciate that Calais LNG can support these important wind development objectives by substantially improving the energy storage capacity in the region. Hence, the Department has a very thorough understanding of that path to a cleaner energy future, and as such that expertise is best suited to be applied to this situation and these applications.

We emphasize that the issue of need for LNG in Maine is extraordinarily technical and is not a conventional environmental issue. The issue directly involves the operation of the ISO-New England electrical grid, enormous technical studies performed by ISO-NE and other power utilities, the fuel switching rate from oil and coal to gas and the rate of construction of gas plants. The DEP's permitting of gas plants and RGGI involvement, and indeed its leadership of RGGI, makes Commissioner Littell and the Department the most efficient way to protect the public interest on these issues.

The BEP process will provide a forum that largely advantages project opponents. Holding extended hearings with numerous procedural impediments will occasion significant delay that will only benefit competing Canadian energy projects which seek to defeat the Calais LNG Project and will not further the energy and environmental goals of the State of Maine, including achievement of its 2000mw and 3000mw wind targets. This point has been repeatedly and emphatically communicated to us by local supporters in Calais who deeply resent the Canadian government's intransigence over the Head Harbour passage issue. Calais LNG is an outstanding project that is desperately needed for a number of reasons (e.g., increasing the availability and reducing the cost of natural gas and electricity in Maine, reducing air emissions in Maine and New England, helping stabilize the electrical grid, balancing wind power generation through natural gas fired generation, and providing economic opportunities in Washington County). Allowing process to override substance in a manner that results in significant project delay should not be countenanced, especially if that process is commandeered by interests outside of Maine, and is not warranted for all of the reasons explained above.

Last, the DEP itself has the ability to hold public meetings and/or hearings on applications that it is reviewing. If the Board is concerned about ensuring that the public and interested parties have an adequate opportunity for input to the application process, Chapter 2 of the DEP's rules sets up a procedure that allows the Department itself to undertake either public hearings or public meetings. Calais LNG has undertaken several years of public outreach on this project and would welcome further opportunity to explain the project to the public and to have the public and interested parties (both opponents and proponents) review and comment on its applications. What Calais LNG seeks to avoid, however, is entering into a procedural situation that permits a long and drawn-out process that can be utilized by project opponents to interpose delay. As thoughtful and well-intended as the BEP's procedural rules are, those rules almost ensure that the formal permitting cycle for a major project -- after the applications are submitted for review by DEP -- will take 12 to 18 months. That is simply too long a process in today's economic climate. Such a lengthy period is not necessary to protect the public interest. In fact, use of an extended permitting process, as may be necessitated by Board

jurisdiction, is not in the public interest when the public interest can be fully protected by Department processes.

In summary, the Calais LNG Project is not controversial, especially in comparison to the MPRP. Public agencies have previously analyzed the relevant issues in considering other LNG projects located nearby. Calais LNG has learned from the experiences of these other applicants and from agency concerns and has worked closely with every agency in conducting thorough studies and exhaustive federal and state applications. Unlike the MPRP, Calais LNG will be subject to environmental review by multiple federal agencies, including a full environmental impact statement process. The Department is uniquely qualified to deal directly with the highly technical gas and electricity issues, assuring full protection of the public interest. The public interest is not served by requiring extended proceedings which may result from BEP procedures and such extended review is not necessary to protect the public interest.

Again, we understand and appreciate the important role the Board of Environmental Protection plays in formulating environmental policy for the State. In this particular instance, however, we firmly believe that the Department is the better entity to manage Calais LNG's application review process. The Calais LNG Project team welcomes public scrutiny of these applications and further welcomes presenting those applications at DEP-managed public meetings or hearings in Washington County or elsewhere.

Very truly yours,



David B. Van Slyke

Enclosure

cc: Commissioner David P. Littell

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